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## RIGHT TO DISCONNECT IN INDIA

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### ABSTRACT

The digital transformation of work has blurred the lines between professional and personal life, leading to an 'always-on' culture that is taking a heavy toll on employee's overall well-being. While India has developed a labour law framework by enacting four new labour codes in 2019-2020 and implementing them from November 2025, none of these codes has incorporated a provision for an employee's Right to Disconnect from work-related communication after working hours. The paper analyses the absence of "Right of Disconnect" in the existing Indian labour laws and also examines the constitutional validity of the "Right to Disconnect" under Article 21 of the Indian Constitution. The paper presents a comparative analysis of the laws of Germany, France, Italy, and Spain and also contend that the Right to Disconnect is not merely a labour welfare measure but also a constitutional imperative rooted in the fundamental rights to life, dignity, privacy, and health.

**Keywords:** Right to Disconnect, Article 21; Labour Codes 2020, Digital Overwork, El Khomri Law, Work-Life Balance, Constitutional Rights, Comparative Law.

## Introduction

The digital revolution has changed the nature of work by blurring the boundary between professional and personal life. The growth of information and communication technologies such as smartphones, email, instant messaging web sites and video-conferencing tools have resulted in hyper connectivity whereby workers are always available to employers even after the working hours. Although these technological advancements have made flexible and remote work setups easier, they have also created an environment of constant access, putting employees under increased pressure to respond to work-related communications outside working hours even on weekends and holidays.<sup>1</sup> This phenomenon of digital overwork also referred to as the “always-on” culture, “tele pressure”, and “info-obesity” has become a major concern regarding the employee’s overall wellbeing, raising fundamental questions about temporal limits of employment relationships in the digital era.<sup>2</sup>

In India, the scale of this problem is severe. The International Labor Organization records that the average working week is 46.7 hours, compared to 38 hours for Americans and 36.6 hours for the Japanese, while these surveys indicate that over 51% of India’s workforce works more than 49 hours per week.<sup>3</sup> A landmark World Health Organization and International Labor Organization study published in the *Environment International* estimated that about 7,45,000 people died in 2016 from stroke and ischemic heart diseases which is attributable to the working 55 or more hours per week which is 29% increase since 2000.<sup>4</sup>

The tragic death of Anna Sebastian Perayil, a 26-year-old chartered accountant at Ernst and Young in Pune who died in July 2024, that is, just four months after joining the firm brought national attention of the fatal effects of an unchecked overwork culture and her mother alleged that too much pressure at work was a factor in her untimely passing. This case has sparked a wave of public outrage over corporate culture and intensified demands for legislative intervention to protect the employee’s overall wellbeing in the digital workplace.

The COVID-19 pandemic forced the erosion of work-life boundaries at a speed that has never

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<sup>1</sup>Jyotiraditya Baunthiyal, *Legalised Overwork and the Myth of Productivity: A Study of the Right to Disconnect Bill* (Dec. 17, 2025).

<sup>2</sup>Tayyba Rasool, Nosheen Fatima Warraich & Muhammad Sajid, *Examining the Impact of Technology Overload at the Workplace: A Systematic Review*, 12 *SAGE Open* 1 (2022).

<sup>3</sup>International Labour Organization, *Working Time and Work–Life Balance Around the World 11–15* (2022).

<sup>4</sup>World Health Organization & International Labour Organization, *Health Effects of Working Long Hours: Joint Estimates* (2021).

been experienced before where millions of Indian employees went into work-at-home. The shift to remote working was necessary for business continuity, added stress on the constant availability and extended the temporal reach of work into personal and family time. Employees had to cope with an environment where the boundary between the workplace and home dissolved and where digital technologies intended to facilitate flexibility instead became tools of invasion into off-duty hours.<sup>5</sup> This resulted in stress, burnout and deterioration of employees mental health, highlighting the need for laws to safeguard the interests of the employees and their right to personal time and have clear boundaries around after-hours work-related contact.

A recent study in *Frontiers in Psychology* (2022) finds that after-hours connectivity has a ‘double-edged sword’ effect. It can boost employees sense of learning and energy at work, but at the same time increases work–family conflict and does not directly improve thriving in the family domain, especially when boundaries and family support are weak.<sup>6</sup>

Against this background, the concept of “Right to Disconnect” has become a major concern in current labour law. The essence of the Right to Disconnect is that an employee has the right to disengage from work-related digital communications such as emails, messages, and calls sent outside their working hours without facing any professional repercussions.

The concept of Right to Disconnect got legislative attraction in India when MP Supriya Sule first introduced the Right to Disconnect Bill, 2018 as a private member’s bill in the Lok Sabha on 28 October 2019 suggesting the creation of an Employees' Welfare Authority and provide to all employees the Right to Disconnect contact with work-related communications outside the working hours.<sup>7</sup> Despite the bill not progressing to enactment reflecting the the lowest success rate in the history of Indian private members' bills but it placed the issue firmly on the national legislative agenda and generated considerable academic and policy attentions.

The legislative momentum was renewed in December 2025 when the MP Supriya introduced a substantially expanded Right to Disconnect Bill 2025 in the Lok Sabha proposing the penalties at the rate of 1% of total employer remuneration for non-compliant entities along with

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<sup>5</sup> Sylwia Pangszy-Kania & Marcin Zieleniecki, Right to Disconnect as a Challenge Determined by the Digitisation of the Labour Market: Implications in the Context of Work–Life Balance, 2024 *Polityka Społeczna*, no. 3, at 88.

<sup>6</sup> Yang Yang, Rui Yan & Yipeng Meng, Can’t Disconnect Even After-Hours: How Work Connectivity Behavior After-Hours Affects Employees’ Thriving at Work and Family, 13 *Frontiers in Psychology* 865776 (2022).

<sup>7</sup> The Right to Disconnect Bill, 2018, Bill No. 211 of 2018, Lok Sabha (India).

provisions for overtime compensation and digital detox centres.<sup>8</sup>

At the same time, there was another private member-bill introduced by Congress MP Shashi Tharoor, suggesting some changes in the Occupational Safety, Health and Working Conditions (OSH) Code, 2020, to limit working hours and legally secure the Right to Disconnect, and the Kerala state government introduced its own Right to Disconnect Bill, 2025 which is aimed at protecting employees of the private sector.<sup>9</sup>

The Oxford Human Rights Hub has noted that the Bill of 2025 aligns with the fundamental principles of the international human rights law, such as the right to life as provided in Article 6 of ICCPR, right against unlawful interference with the private life as provided in Article 17 and the right of rest, of leisure and of reasonable restriction of the number of hours of labour under Article 7(d) of the ICESCR.<sup>10</sup>

However, the legislative journey of the Right to Disconnect in India has been marked by various uncertainties and ongoing debates. The scholars have identified that multiple challenges to effective implementation which includes definitional ambiguity regarding what constitutes work related contact and what not, the enforcement gaps in designing the feasible sanction, how they dispute resolution procedures must work and also the cultural resistance from the managerial expectations that will prioritize productivity over the employee's wellbeing and their boundaries. Major concerns persist about the scope of coverage, particularly for the gig workers, remote employees and on-call roles and about how to balance these operational necessities with the employee protections across the diverse sectors. The explicit incorporation of the disconnect protections into the labour law codes is essential rather than relying on standalone measures or soft law approaches that may lack enforcement teeth.

The debate surrounding the Right to Disconnect in India sits at the intersection of technological change, labour law reforms, and evolving conceptions of employees' welfare. This paper examines India's legal frameworks and analyses the absence of right-to-disconnect protections in the recently enacted labour codes, evaluating their constitutional basis under

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<sup>8</sup> The Right to Disconnect Bill, 2025, Bill No. 51 of 2025, Lok Sabha (India).

<sup>9</sup> Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, India Code (2020).; Kerala Right to Disconnect Bill, Bill No. 257 of 2025 (Private Member's Bill No. 786/2025), Kerala Legislative Assembly (India).

<sup>10</sup> Oxford Human Rights Hub, The Right to Disconnect Bill 2025 and International Human Rights Law (2026).

Article 21.<sup>11</sup>

The paper also draws lessons from France, Germany, Italy, and Spain. It assesses the strengths and limitations of the Right to Disconnect by situating the Indian experience within international law and critically evaluating its legal, practical, and cultural dimensions. This article asks whether the omission of a statutory Right to Disconnect from the 2019-2020 labour codes constitutes a constitutional failure under Article 21 of the Indian Constitution, and what design principles should guide an Indian right-to-disconnect regime that is responsive to digital overwork and connection time.<sup>12</sup>

This research argues that the Right to Disconnect is not merely a welfare measure but a constitutional imperative rooted in the fundamental rights to life, dignity, privacy, and health guaranteed under Article 21.<sup>13</sup>

Despite growing policy and doctrinal engagement with digital overwork and the proposed Right to Disconnect Bills, existing Indian scholarship has largely treated the Right to Disconnect as a matter of labour-welfare or working-time reform, with at best cursory reference to Article 21.<sup>14</sup> It has not yet offered a sustained account of the constitutional necessity of such a right, nor has it developed a conceptual framework that renders “connection-time” and digital reach visible to labour law as legally cognisable categories. Comparative literature on France, Germany, Italy and Spain, while rich in description, likewise stops short of outlining a normative template for an Indian regime grounded in the Supreme Court’s dignity, mental health and privacy jurisprudence. This article addresses these gaps by (i) reconstructing the Right to Disconnect as a doctrinal extension of Article 21<sup>15</sup>, (ii) theorising digital overwork and connection-time as objects of regulation, and (iii) deriving a set of constitutionally informed design principles for Indian legislation from comparative practice.

### **Right to Disconnect**

The Right to Disconnect can be understood as a new labour-dignity right which seeks to

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<sup>11</sup> INDIA CONST. art. 21.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id.

protect workers from digital intrusion and imposes employers with affirmative requirements to design work in such a way as to make Right to Disconnect as an actual and enforceable condition. With the digitally mediated workplaces where information and communication technologies extend to temporal reach of employment beyond control in an employee beyond typical scope, the right becomes a normative constraint to the expansion of employer power into the personal domain of an employee.<sup>16</sup>

### **Definition**

The Right to Disconnect refers to a legally or contractually recognised right of workers to not use digital communications on work-related matters, including emails, phone calls and activity related to platforms, outside the hours specified in their agreed working hours, without facing reprisals or other negative effects. It also aims to re-establish time and space between work and personal life in a digital, always-on environment, recovering non-working time as a sacred sphere.

### **Nature of the Right: Negative and Positive Aspects**

First, being a negative right, it assures of non-intervention with the personal time of an employee by reducing expectations of a non-working employee to any activity beyond the set of working hours. These involve defence against explicit demands as well as implicit pressures like the demand of immediate responsiveness which stretch managerial control to the time of rest.

Secondly, the right is in the nature of a positive duty, and employers must take organisational, technical and managerial arrangements that make effective disconnection possible. Such might be internal communication policies, workload management, technological interventions such as after-hours email prohibitions. These obligations are increasingly seen as an extension of the larger employer responsibility of protecting the physical and mental health of workers and also to provide them with predictable working time.<sup>17</sup>

This multimodality represents a drastic shift in labour law from controlling the duration of

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<sup>16</sup> International Labour Organization, Working Time and Work-Life Balance Around the World (2022).

<sup>17</sup> Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 Concerning Certain Aspects of the Organisation of Working Time, 2003 O.J. (L 299) 9.

labour to controlling the scope of work in a digitally networked world.

### **Qualified Right vs. Absolute Right**

One of the main conceptual issues is whether the Right to Disconnect needs to be conceived as an absolute right or a qualified right. There would be an absolute model which would not allow any work-related communication after the designated hours. Nevertheless, the legal and policy frameworks of the majority of modern countries follow a more moderate approach, allowing exceptions when there is a need to act within operations, in an emergency, or when a certain role must be performed flexibly. The real problem is how to design strong safeguards so that the “exception” (contacting workers after hours in genuine emergencies or special cases) does not quietly become normal everyday practice and so the Right to Disconnect continues to have real, meaningful protective force.

### **Work-life balance, mental health, and Digital Autonomy**

Work-life balance, psychological welfare, and freedom of the digital world are closely associated with the Right to Disconnect. Empirical data on ICT-enabled work has found that continuous digital availability helps to increase working hours and work-family conflict as well as a higher stress level, and that a policy of organised disconnection is connected with enhanced well-being and satisfaction with work.<sup>18</sup>

The notion of tele pressure, or, the psychological urge to act immediately in response to the messages related to work, proves that in digital working environments, control may be also instigated by informal rules along with internalised expectations. This renders disconnection not only an issue of the formal rights, but also a reforming of the workplace practises.

Mentally, the failure to switch out of work has been associated with burnout, anxiety, and sleeping problems. The Right to Disconnect therefore serves as a preventive tool in the nature of occupational health systems in that it guarantees a continuity in rest

Moreover, in digitally mediated labour, there is a shift to the shift of control using a connexion, instead of a physical presence. In this regard, the Right to Disconnect protects one of the most fundamental aspects of digital autonomy, which is the right of an individual to decide when

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<sup>18</sup> Emily Wilder, Shahnaz Aziz & Karl L. Wuensch, Working 9 to Always: Relationships Among Workplace Telepressure, ICT Boundary Creation, and Workaholism, 12 Health Psychol. Rep. 227 (2023).

and how he or she becomes available over the electronic medium.

### **Conceptualising the Right to Disconnect**

The Right to Disconnect has its conceptual basis on the collision of labour dignity, autonomy, and digital privacy.

To start with, it is based on labour dignity where labour should be structured in such a way that it is compatible with the need to rest, family, and personal development of an individual. This is in line with the conception of the International Labour Organisation of decent work that focuses on humane working conditions, controlled working time and also safeguarding the physical and mental health of the workers.

Second, the right corresponds to the principle of autonomy and personhood. Constant digital availability wears down the individual ability to govern himself, as it destroys the distinction between the professional and the personal self. In this sense, the Right to Disconnect allows maintaining a safe harbour of non-work time necessary to self-determination, personal life, and active involvement in society.

Third, the right overlaps with the digital privacy and informational boundaries. The demands of 24/7 may be mediated by personal devices and information-driven platforms, which allow the employer to gain access to the personal areas of the employees. The Right to Disconnect thus serves as a structural protection against over-surveillance and the datafication of off-duty life.

It is not a smooth sail in the conceptualisation of the Right to Disconnect. Although it aims at restricting control by employers, it has to keep up with the realities of labour availability and flexibility in the workplace such as globalisation of labour, operational on-demand services. This brings up a basic issue of whether the right is supposed to be as a strict legal right or a context-based norm that can be adjusted in various sectors.

These issues are more acute in platform-based work environment and algorithmically managed ones. The imperative of ubiquitous access is frequently entrenched in rating systems, performance metrics, and automated task allocation systems and functions, and cannot be easily disconnected regardless of whether there are formal directives by an employer. This makes it hard to enforce and realise the right especially in gig economy.

Simultaneously, the growing adoption of the Right to Disconnect in various jurisdictions suggests a slow development of a global labour standard addressing the digitalisation and the effect it has on the working conditions.

The Right to Disconnect, as a whole, is a conceptual development of the labour law, the evolution of industrial labour (time-based labour) into digitally mediated and unbounded labour. It reconceptualizes the working time regulation as a greater control of the time and technological boundaries of labour as such.

These conceptual premises are given constitutional meaning in the Indian context. The mental well-being, autonomy, and dignity protection indicated in Article 21 of the Constitution imply that the Right to Disconnect is not only a policy option but it could be seen as a continuation of the available basic rights jurisprudence.<sup>19</sup> In turn, the Right to Disconnect offers an analytical vital analytical point of junction between the labour regulation and the constitutional guarantees, which contributes to its identification as the part of right to life and personal liberty.

## **Article 21 and the Right to Disconnect**

### **digital dignity**

The Constitution of India in the article 21 is that no individual shall be deprived of life or personal liberty without following due process stipulated by law.<sup>20</sup> This has been changed by judicial interpretation to be a wide repository of substantive rights that include dignity, autonomy, privacy, and well-being.

A purposive interpretation of Article 21 as applied in *Maneka Gandhi v. Union of India* stated that the right to life encompasses the right to live with dignity and any limitation on the personal liberty must be just, fair, and reasonable.<sup>21</sup> It was an overwhelming move to a transformative constitutional structure.

In *Kharak Singh v. State of Uttar Pradesh* earlier, the Court dismissed the practise of intrusive surveillance, noting that personal liberty does not only comprise of the simple existence of animals, but also a privacy sphere of its own.<sup>22</sup> Such acknowledgement of a space that could

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<sup>19</sup> Id. art. 21; *K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1 (India).

<sup>20</sup> Id. art. 21.

<sup>21</sup> Id. art. 21; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248(India).

<sup>22</sup> *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295(India).

not be intruded into continuously preconditioned further extensions of dignity and privacy in the framework of Article 21.

The principle that the right to life included humane working conditions, health, and dignity was subsequently upheld in cases such as *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* and *Bandhua Mukti Morcha v. Union of India*.<sup>23</sup>

The Supreme Court's understanding of Article 21 already protects interests that strongly support a Right to Disconnect.<sup>24</sup> In *In Re: Ramlila Maidan Incident*, the Court held that the "right to sleep" at night, without disturbance, is a fundamental part of the right to life, just like the rights to breathe, eat, and drink, and therefore held that it violated Article 21.<sup>25</sup> In *People's Union for Democratic Rights v. Union of India*, the Court further held that non-payment of minimum wages and exploitative labour conditions violate the right to live with human dignity under Articles 21 and 23, making fair and humane working conditions a constitutional requirement rather than a matter of ordinary labour. Recent developments have taken this reasoning forward by clearly recognising mental health under Article 21, which directly connects to the harms of digital overwork.<sup>26</sup>

In *Sukdeb Saha v. State of Andhra Pradesh, 2025*, the Supreme Court treated mental health not just as a policy goal but as an essential part of the right to life and dignity, and issued binding directions to the state to ensure systems and environments that protect mental health.<sup>27</sup> If sleep, rest, humane working conditions and mental health are all protected by Article 21, then constant ICT-enabled availability and pressure to remain digitally connected, which undermine these interests, sit uneasily with the Constitution and justify a legislated Right to Disconnect as part of enforcing Article 21.<sup>28</sup>

In totality, this jurisprudence confirms that Article 21 not only safeguards the right to live but the quality of such a life that should be meaningful and dignified.<sup>29</sup>

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<sup>23</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608(India); *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161(India).

<sup>24</sup> *Id.* art. 21

<sup>25</sup> *In re Ramlila Maidan Incident* Dt. 4/5.06.2011, (2012) 5 S.C.C. 1 (India).

<sup>26</sup> *People's Union for Democratic Rights v. Union of India*, (1982) 2 S.C.C. 494, 500–02 (India); INDIA CONST. arts. 21, 23.

<sup>27</sup> *Sukdeb Saha v. State of Andhra Pradesh, 2025* INSC 893 (India).

<sup>28</sup> INDIA CONST. art. 21.

<sup>29</sup> *Id.*

Located along this path, work overload, rendered digital by keeping employees under the influence of labour communications outside regular working hours can be thought of as a modern form of interference with the temporality and space of personal lives. The Right to Disconnect turns the Court's dignity-based Article 21 jurisprudence into concrete protections in the digital workplace.<sup>30</sup> It does this by setting binding legal limits on employers' ability to contact workers outside working hours, creating enforceable rights rather than merely voluntary corporate policies.

### **Mental Health and Constitutionalisation of Psychological Integrity**

The importance of the Right to Disconnect in the constitution is also reinforced by the understanding that mental health is one of the constituent provisions in Article 21.<sup>31</sup> The Supreme Court ruled in 2025 that mental well-being is included as a right to life and dignity thus establishing psychological integrity as a subject of protection by the Constitution.<sup>32</sup>

This shift in doctrine is crucial. Research now shows that constant digital connectivity is linked to burnout, anxiety and disturbed sleep, especially when workers are expected to be "always on."<sup>33</sup> When these harms arise from how work is organised and from after-hours digital demands, they are no longer just individual problems but structural risks to worker's mental health that call for legal and regulatory responses.

In this context, the lack of legal protections against after-hours connectivity is a lack of mitigation of psychosocial harm cognizable in the Constitution of India. The conceptualisation of a statutory Right to Disconnect may thus be viewed as a proactive occupational health measure that will narrow the Court's mental health jurisprudence to actual labour safeguards.

### **Privacy, Decisional Autonomy and Time Control**

The constitutionalization of the Right to Disconnect is further promoted by the acknowledgement of privacy as a basic right in the case Justice K.S. Puttaswamy (Retd.) v. Union of India.<sup>34</sup> The Court affirmed that privacy encompasses informational self-determination, decisional autonomy and guarding personal spaces against unnecessary

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<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Sukdeb Saha, 2025 INSC 893(India).

<sup>33</sup> International Labour Organization, Working Time and Work-Life Balance Around the World (2022).

<sup>34</sup> K.S. Puttaswamy v. Union of India, (2017) 10 S.C.C. 1, 497 (India).

intrusion.

These secured zones are being influenced in digitally mediated work environments. Organisational communication is commonly carried out on personal equipment and online, which is reaching employer into homes and offline areas. Anticipation of constant access has the positive effect of inhibiting an individual to determine what they consider off work, therefore curbing autonomy over time and life in general.

The Right to Disconnect, as interpreted through the prism of Puttaswamy, protects a certain aspect of privacy, which is the right to impose temporal restrictions on digital interactions that are work-related. It sets boundaries in the legal scope of communication between the employer and the employee so as to regain time, attention, and personal space.

### **Free Time, Leisure and Substantive Equality**

Despite the fact that the Supreme Court has not directly stated a separate right to leisure, the jurisprudence to establish under Article 21 has continuously identified rest, recreation and humane working environment as parts of a dignified living.<sup>35</sup> Certain provisions to safe workplaces and equitable working conditions contain some constitution underlying that work does not absorb the totality of the existence of an individual.

Workers in subordinate or precarious roles bear disproportionately the weight of in a labour market characterised by power asymmetries where they have expectations of uninterrupted availability. Those employees who possess low bargaining power could not resist after-hours requests as much, and in order to stay in the job, they had to sacrifice rest and personal life.

Substantive equality can then form the basis of a constitutional theory of the Right to Disconnect . The right makes sure that the access to leisure, rest, and non-work life is not subject to bargaining power by means of providing legal restrictions on the scope of digital reach but protecting the right as a constitutional right.

### **Labour Protection to Constitutional Necessity**

The above discussion shows that the Right to Disconnect is not just a labour issue, but rather

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<sup>35</sup>Id. art. 21.

grounded in the constitutional principles of dignity, autonomy, privacy, mental health, and equality under Article 21.<sup>36</sup>

The incapability of the labour law to guard against after-hours connectivity in a hyper-connected economy will constitute a constitutional deficit. Although people have a legal entitlement to privacy and dignity, the lack of legal protection against digital overreach makes the rights hard to implement in practise.

So, the Right to Disconnect can be perceived as an obligatory doctrinal expansion of Article 21, which translates abstract constitutional rights into binding rights in employment relations.<sup>37</sup> It fills the gap between constitutional principle and reality in workplace because people are gaining substantial control over their time, their mental space, and their personal life.<sup>38</sup>

### **Constitutional Principle to Legislative Duty**

In case Article 21 safeguards the dignity, psychological integrity, privacy, and decisional autonomy, the State has a positive obligation to design labour regulation in a way that prevents the infusion of digital intrusion into personal life.<sup>39</sup>

The present-day labour law, such as the Labour Codes, can therefore not be constitutionally inclusive. Although it modernises the formalities of labour regulation, it does not address the harms that arise from the digital extension of work. Such omission is not just a failure in policy but a constitutional failure.

The Right to Disconnect as a form of operationalisation of Article 21 in the digital labour context would have to be recognised by legislation as a right.<sup>40</sup> Theoretically speaking, such a right would not establish a new substantive right but rather serve as a legislative clarification of the rights that already exist in the constitution similar to those that have been made legislative interventions in the past such as workplace safety, sexual harassment, and mental healthcare.<sup>41</sup>

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<sup>36</sup> Id. art. 21; K.S. Puttaswamy v. Union of India, (2017) 10 S.C.C. 1 (India).

<sup>37</sup> Id. art. 21.

<sup>38</sup> Sukdeb Saha v. State of Andhra Pradesh, 2025 INSC 893 (India).

<sup>39</sup> Id. art. 21.

<sup>40</sup> Id. art. 21.

<sup>41</sup> Protection of Women from Sexual Harassment at Workplace Act, No. 14 of 2013, India Code (2013); Mental Healthcare Act, No. 10 of 2017, India Code (2017); Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, India Code (2020).

## The Lack of Disconnect Protection in the Labour Law System in India

### Labour Codes (2019-2020)

In 2019-2020, India carried out its largest labour law reform since independence, merging around twenty-nine of its central labour legislation in four broad codes: the Code on Wages, 2019; the Industrial Relations Code, 2020; the Code on Social Security, 2020; and the Occupational Safety, Health and Working Conditions (OSH) Code, 2020. The codes were to make the compliance process easier, improve on labour welfare and to modernise the regulation of relationships between employees and employers.<sup>42</sup>

It is worth noting that although each of the four Codes has been assented to by the President, the functional interpretation of the Codes has been piecemeal in notifications and State-level rules to create an intermediate regulatory terrain that is itself silent on digital connectivity. To analyse the Codes, it is possible to assume that they came into force in November 2025 but they would be a part of a non-uniform and changing implementing structure.<sup>43</sup>

Of these, the OSH Code, 2020 is the most directly applied in the area of working time and employee welfare regulations. It specifies typical hours of work an eight-hour day and forty-eight hours a week, it obliges overtime pay, which is twice regular wage rate, and rest periods, weekly leaves, and paid leave.<sup>44</sup> Nevertheless, these provisions are deeply embedded within a time-bound and bodily based notion of labour, and govern employment using quantifiable parameters like attendances, hours of work, physical presence hours. The logic that is applied even in places where the OSH Code still speaks of health and safety in general terms is still physically hazardous in the workplace as opposed to psychosocial risks caused by continual digital access, cognitive overload and work stress. This shows how the regulatory paradigm carried into the industrial era still exists and it has not yet adjusted to the realities of digitally mediated labour.

More importantly, there is no instance of addressing the online extension of work in each of the four Labour Codes.<sup>45</sup> They fail to mention after hours electronic communication, being

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<sup>42</sup> Code on Wages, No. 29 of 2019, India Code (2019); Industrial Relations Code, No. 35 of 2020, India Code (2020); Code on Social Security, No. 36 of 2020, India Code (2020); Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, India Code (2020).

<sup>43</sup> Id.art.21.

<sup>44</sup> Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, §§ 25–28, India Code (2020).

<sup>45</sup> Code on Wages, No. 29 of 2019, India Code (2019); Industrial Relations Code, No. 35 of 2020, India Code

connected remotely, and the demand of twenty-four-hour availability that define modern day work. Consequently, although the Codes are formal consolidation, they are conceptually connected to a previous model that is inappropriate to describe the widening scope of work in a digital economy.

### **Shops and Establishments Laws: Restricted Temporal control**

In the state scale, the working conditions of the commercial establishments, such as the working hours, paid days of leaves, and other leave provisions, are still controlled by the Shops and Establishments Acts. Although the statutes differ in the various states, they all contain the regulatory logic that focuses on physical working time and presence in the workplace.<sup>46</sup>

Even though there is flexibility that has been added to be accommodative to the modern business practises in some of the states, these laws also fail to identify digital connectivity as work. They give no restrictions to the after-hours communications and they do not give the employees any binding rights not to engage in work-related communications after the agreed times. Therefore, their protection is still narrow in the area of remote working, flexible working and remote working, and digitised workforce

### **The Regulatory Gap: Time of Work and Reach of Work**

It is the main drawback of labour law system in India that does not consider digital connectivity as an employment. According to the current statutory regime, an employee who is involved in emails at the end of the day, taking part in virtual meetings when they are on holiday or available on a digital platform when he or she is not engaged in formal work is not under the law regarded as working regarding overtime, rest time and occupational health safeguard.<sup>47</sup>

This shows a structural problem still deeper in that, Indian labour law still governs the time of labour but not the extent of labour. In other words, labour laws are effective to police clock-time, i.e., hours, shifts and overtime, but not connection-time i.e. times when the worker is expected to be digitally connectable, responsive or on stand-by.

This divide is particularly apparent in labour divisions including IT-BPM, financial services

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(2020); Code on Social Security, No. 36 of 2020, India Code (2020); Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, India Code (2020).

<sup>46</sup> Shops and Establishments Acts (various states) (India).

<sup>47</sup> Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, India Code (2020).

and platform based labour where labour is arranged via the use of digital dash boards, messaging applications and project manager applications that expands employer control well beyond working hours. The proliferation of work into personal time in such circumstances does not occur as an accident but is inherent in the organisation of labour.

The lack of disconnect protectors has several effects. One, it subjects the employees to unrelenting work-related demands with no legal protection to counter them hence enhancing stress, burnout, and mental exhaustion. Second, it makes employer-based measures to limit after-hours communication, e.g. internal email curfews, or even that a company simply promotes wellness, purely voluntary with no statutory minimum, external regulation or right of refusal. Thirdly, it solidifies an unequal distribution of power, the lack of the law on digital intrusion legalising the anticipation of all-time availability in employment relations.<sup>48</sup>

The Labour Codes reproduce this regulatory gap even though their stated purpose is the modernisation of work since they do not encompass the digital aspect of work.<sup>49</sup> The outcome is a legal framework formally revised but substantively incomplete, which cannot meet the changing realities of labour in a hyper-connected economy.

By such an action, the Codes and other laws become very uncomfortable with the wider conception of the Supreme Court of Article 21 and dignity, wherein mental health, privacy, and leisure are seen as fundamental parts of the right to life, but in which digitally mediated work is hardly regulated.<sup>50</sup> Such a strain points to the necessity of re-thinking labour safeguards not only with reference to time constraint, but also concerning technological scope of labour itself.

### **Directive Principles of State Policy**

The Directive Principles of State Policy add further support. Article 39 of the Indian Constitution instructs the State to ensure that the health and strength of workers are not abused, and that the citizens of India are not forced by economic necessity to enter avocations unsuited to their age or strength.<sup>51</sup> Article 42 of the Indian Constitution instructs the State to make

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<sup>48</sup> Eurofound, Right to Disconnect: Exploring Company Practices (2021).

<sup>49</sup> Code on Wages, No. 29 of 2019, India Code (2019); Industrial Relations Code, No. 35 of 2020, India Code (2020); Code on Social Security, No. 36 of 2020, India Code (2020); Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, India Code (2020).

<sup>50</sup> Id.art. 21; K.S. Puttaswamy v. Union of India, (2017) 10 S.C.C. 1 (India).

<sup>51</sup> INDIA CONST. art. 39.

provision for securing just and humane conditions of work.<sup>52</sup> Article 43 of the Indian Constitution instructs the State to endeavour to secure a living wage and conditions of work ensuring a decent standard of life and full enjoyment of leisure.<sup>53</sup> All these provisions of the Indian Constitution together support the state's positive obligation to enact legislation on working condition protection that includes the digital aspect of work.

### **Comparative Right to Disconnect in Germany, France, Italy and Spain**

The legalisation of the Right to Disconnect has emerged in a number of jurisdictions in response to the threat of digitalisation and the blurring of boundaries between work and personal life. Whereas these jurisdictions use divergent regulatory methods, they represent a convergence that the existing continuous digital presence should, or must, be legally or institutionally limited.

#### **France: The Statutory Model**

The Right to Disconnect was first codified in France by the Loi Travail (El Khomri Law), Loi n° 2016-1088 du 8 août 2016, which entered into force on 1 January 2017.<sup>54</sup> Article 55 of Chapter II (“Adapting Labour Law to the Digital Age”) amended the French Labour Code by inserting a new paragraph 7 into Article L.2242-8 (now renumbered as Article L.2242-17, 7°), making the “modalities of the full exercise by the employee of the Right to Disconnect” and the regulation of digital tools part of the mandatory annual negotiation on professional equality and quality of life at work.<sup>55</sup> Under this provision, companies must negotiate how employees can effectively exercise the Right to Disconnect and must establish mechanisms to regulate the use of digital tools in order to ensure respect for rest periods, leave, and personal and family life.<sup>56</sup>

French model has many peculiarities. It concerns any company employing 50 persons or more, as they are obliged to include the Right to Disconnect in Mandatory Annual Negotiations with employees on gender equality and at work quality of life (MAN). In case no agreement is

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<sup>52</sup> INDIA CONST. art. 42.

<sup>53</sup> INDIA CONST. art. 43.

<sup>54</sup> Loi n° 2016-1088 du 8 août 2016 relative au travail, à la modernisation du dialogue social et à la sécurisation des parcours professionnels, J.O., 9 août 2016, p. 1 (Fr.).

<sup>55</sup> Code du travail [C. trav.] art. L.2242-8, 7° (version en vigueur 1er janvier 2017–24 septembre 2017), renuméroté art. L.2242-17, 7° (Fr.).

<sup>56</sup> Ministère du Travail, *Le droit à la déconnexion* (guidance note, 2026) (Fr.)

achieved, the employer must unilaterally form a charter after appropriate consultations with the works council that defines the Right to Disconnect exercising procedure, which should be accompanied by training in reasonable use of the digital devices. The adoption of this law was motivated by a report of September 2015 which studied the effects of digital technologies on labour, and found that 37 percent of workers were using professional digital tools outside of work and 62 percent wished to be controlled more.<sup>57</sup>

It is worth noting that the Right to Disconnect is not specified in French law, leaving companies with leeway to implement it. It is indirectly enforced: employers who do not include the Right to Disconnect in their MAN can be criminally prosecuted for preventing the exercise of union rights and face up to 1 year of imprisonment and a fine of EUR 3,750. In July 2018, the French Supreme Court required Rentokil Initial to pay EUR 60,000 to a former employee who was forced to remain constantly available; the case is considered the first under the new legislation.<sup>58</sup>

### **Germany: The Corporate Governance Model.**

Germany is a more employer-centred and decentralised model. Rather than a statutory Right to Disconnect, German law uses the current working-time regulations in the *Arbeitszeitgesetz* (Working Hours Act) such as maximum hours per day and an 11-hour continuous rest interval between working days and a strong co-determination by way of working council.<sup>59</sup> Work or post work emails outside of the normal working day can theoretically reduce this guarded rest time, thus employers should organize work and communication patterns to accommodate these boundaries.

Practically, a number of big organizations have devised an internal disconnection policy by way of collective arrangement. An example is Volkswagen, which made a deal with its works council to prevent forwarding emails to the devices of some employees between the evening and the early morning, and a system introduced by Daimler, its optional Mail on Holiday system, which automatically deletes emails sent to a vacationing employee and notifies the sender of an alternative contact. These are normal terms of works councils in a company or

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<sup>57</sup> Agence nationale pour l'amélioration des conditions de travail (ANACT), *Synthèse – Santé mentale à l'ère du numérique 2* (2019) (Fr.).

<sup>58</sup> Cour de cassation [Cass.], soc., 12 juill. 2018, n° 17-13.029 (Rentokil Initial) (Fr.).

<sup>59</sup> *Arbeitszeitgesetz* [ArbZG] [Working Hours Act], §§ 3–5 (Ger.).

works agreement which is a model of employee-participation highly regarded in Germany.

The German situation therefore demonstrates a model of corporate-governance-based model where disconnection occurs at enterprise level and not a legislative right that is specifically expressed. Although this enables flexibility and industry-specific customisation, the degree of protection is largely reliant on the size of the company and unionisation, and the workers in smaller, or less organised industries end up with fewer, or no, effective measures against digital overwork.<sup>60</sup>

### **Italy: A Contractual-Hybrid System**

Italy has embraced a hybrid system that combines statutory recognition with generous contractual freedom. The Right to Disconnect is embedded in the legislation on smart working (*lavoro agile*), specifically in Law No. 81 of 22 May 2017.<sup>61</sup> It stipulates that the individual smart-working agreement shall include disclosure of the rest periods of the worker, as well as technical and organisational provisions that are necessary to achieve the disconnection of the worker with technological work tools. The Italian one is based more on individual employment contracts than on collective bargaining, as seen in France, to determine when workers are supposed to be digitally available and when they are not. Although this enables flexibility and can accommodate varying work arrangements, it also poses the question of unequal bargaining power: without effective collective protective mechanisms many employees will not be able to enter into significant disconnection agreements, undermining the effective capacity to exercise the right.

### **Spain: Statutory Framework of Rights.**

Spain has decided on a more rights-based, statutory pathway. Article 88 of Organic Law 3/2018 on the Protection of Personal Data and Guarantee of Digital Rights specifically acknowledges a personal right to digital disconnection, associated with the right to rest periods, leave, and personal and family privacy during non-working hours that are not legally or contractually obligated.<sup>62</sup> It is the duty of employers to establish internal policies (after consultation with

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<sup>60</sup>Co-Determination in German Companies: Rules and Laws, Deutschland.de (Jan. 29, 2024).

<sup>61</sup> Legge 22 maggio 2017, n. 81, Misure per la tutela del lavoro autonomo non imprenditoriale e misure volte a favorire l'articolazione flessibile nei tempi e nei luoghi del lavoro subordinato, G.U. 13 giugno 2017, n. 135 (It.).

<sup>62</sup> Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales, B.O.E., 6 Dic. 2018, art. 88 (Spain).

workers' representatives) that elaborate on how this right will be exercised, with consideration of the nature of the employment relationship and a view to balancing work and life. The peculiarity of the Spanish model is that the Right to Disconnect is considered as a subset of a larger set of what is called digital rights, directly related to the concept of privacy, dignity and work–life balance, but, in any case, its practical realisation is subject to the effectiveness with which they are implemented at the organisational level in the form of specific organisational policies and practices.

## **Challenges**

- **Connection-time not recognised as working time**

Indian labour law still counts “hours of work” in the traditional sense and does not treat after-hours emails, calls or online availability as work, which leaves large amounts of digital labour unpaid and outside formal regulation.

- **No legal limits on after-hours communication**

There is no clear statutory line on when an employer may contact a worker outside scheduled hours, allowing continuous communication and implicit on-call expectations without any corresponding legal duty to justify or record such contact.

- **Rest and work–life boundaries eroded**

In the absence of any legally protected off-time, many employees remain mentally and digitally “at work” long after their shift ends, which undermines rest, leisure and family life and steadily blurs the boundary between personal and professional time.

- **Serious mental-health and well-being risks**

Empirical studies link constant connectivity and extended working hours to higher levels of stress, burnout, fatigue, sleep disturbance and other mental-health harms, yet Indian labour law does not explicitly frame digital overwork as an occupational health hazard.

- **Managerial discretion fills the legal vacuum**

Because there are no clear rules on digital contact, after-hours work is effectively governed by

managerial choice and workplace culture rather than by enforceable workers' rights or statutory standards.

- **Overtime and compensation are hard to claim**

When after-hours emails, calls and tasks are not recognised as “work,” employees struggle to prove excess hours and to claim overtime wages or any other form of compensation for off-the-clock digital labour.

- **Pronounced power imbalance between employer and employee**

In practice, workers often answer after-hours messages because they fear poor appraisals, loss of opportunities or even job loss, especially where job security and collective bargaining protections are weak. This “fear-driven” compliance is not formal coercion but operates as a subtle, constant pressure that makes it unrealistic to expect workers to set boundaries on their own.

- **Weak and uneven enforcement of existing rules**

Inspectorates already struggle to police basic working-time norms in small, medium and informal enterprises, and digital work—frequently informal, undocumented and dispersed—makes potential violations even harder to monitor or prove.

- **Informal, gig and platform workers are largely uncovered**

Most Indian workers are in informal, contractual or gig-based arrangements, often outside the effective reach of labour statutes and enforcement, which makes them especially vulnerable to continuous digital demands from clients, platforms or intermediaries.

- **Constitutional protections not translated into labour-law rules**

Article 21 jurisprudence protects dignity, health, rest, mental well-being and privacy, but these guarantees have not yet been converted into specific labour-law norms on digital disconnection, leaving a gap between constitutional principle and everyday work regulation.

- **“Always-on” work culture becomes the norm**

In sectors such as IT-BPM and other services, constant availability has become an informal

standard of performance, so refusing after-hours communications—even where there is no formal duty is socially and professionally costly for workers.

- **No clear legal remedies for excessive digital work**

At present, there is no targeted statutory mechanism that allows employees to challenge excessive digital contact or to enforce boundaries on after-hours communication as a matter of right.

- **Risk of sham or “shadow” compliance if a right is created**

Even if a Right to Disconnect is recognised in law, employers may present formal compliance while informally rewarding those who stay online and sidelining those who actually disconnect, producing a shadow culture that undermines the right and is difficult to prove in litigation.

- **Privacy and surveillance tensions in enforcing disconnection**

Efforts to monitor and limit after-hours contact may encourage more intensive tracking of devices, apps and online activity to demonstrate compliance; without clear surveillance and data-protection rules, such monitoring risks infringing employees’ privacy and Article 21 interests, creating a new rights conflict.

- **Potential friction with Article 19(1)(g) and business-freedom claims**

A strong, rigid Right to Disconnect could be attacked as an unreasonable restriction on the freedom to carry on business under Article 19(1)(g), especially in cross-border, time-zone-sensitive sectors, which means any eventual statutory design must be carefully calibrated and justified as a proportionate way of giving effect to Article 21 and related Directive Principles<sup>63</sup>

## **Recommendations**

- **Recognise connection-time as work and define digital overwork**

The Labour Codes, especially the Code on Wages, 2019 and the Occupational Safety, Health

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<sup>63</sup> INDIA CONST. art. 19(6); INDIA CONST. art. 21; INDIA CONST. arts. 39, 42, 43.

and Working Conditions Code, 2020, should be amended to expressly treat certain forms of after-hours digital contact like emails, calls, platform messages that demand a response, as working time when they involve work tasks or mandatory availability. Rules should also specify what counts as digital overwork and what evidence may be used, such as server logs, time-stamped communications and workload records, so that excess connection-time can be measured and enforced within the existing framework on hours, rest and overtime.<sup>64</sup>

- **Enact a statutory Right to Disconnect with strong non-retaliation**

Parliament should enact a clear, justiciable Right to Disconnect, grounded in Article 21, allowing employees to ignore work-related communications outside agreed working hours without adverse consequences.<sup>65</sup> Non-retaliation provisions must prohibit both direct and indirect penalties, including poor appraisals or loss of opportunities for exercising this right, and place the burden on employers to show that any adverse action is unrelated.

The statute should also clearly define limited exceptions to the Right to Disconnect, such as genuine emergencies, serious safety incidents, continuity-critical system failures, or time-bound public-facing crises, and require that these exception categories, together with mandatory compensation for any off-time work, be set out in advance in each employer's disconnection policy.

- **Integration of the Employees Welfare Authority**

If an Employees Welfare Authority is established, its functions should be closely coordinated with the existing labour inspectorate and labour court system. This can be done through clear referral mechanisms, joint inspections, and shared data systems. Such integration will reduce institutional overlap and ensure that the Right to Disconnect is enforced through existing and familiar enforcement structures, rather than creating a fragmented parallel system.

- **Adopt phased, sector-sensitive implementation**

Implementation should begin in sectors where digital overwork is most visible and traceable,

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<sup>64</sup> Code on Wages, No. 29 of 2019, India Code (2019); Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, India Code (2020).

<sup>65</sup> INDIA CONST. art. 21; *K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1 (India); *Sukdeb Saha v. State of Andhra Pradesh*, 2025 INSC 893 (India).

such as IT-BPM, finance and other formal services, using sector-specific frameworks that reconcile global time-zone demands with guaranteed off-time and compensation for genuine emergencies. Experience from these sectors can then guide calibrated extension to others.

- **Mandate workplace-level disconnection policies through participation**

Enterprises above a specified size (for example, 50 or 100 workers) should be required to adopt written disconnection policies developed through consultation or collective bargaining with employees or unions, following the French model of mandatory negotiation on this issue. These policies should define quiet hours, set escalation rules for emergencies and provide accessible procedures for workers to raise concerns about after-hours contact.

- **Embed mental-health and “digital hygiene” support in labour policy**

Provisions on digital detox centres and counselling services should be integrated into existing mental-health and occupational-health frameworks rather than operating as stand-alone schemes. Regular training on healthy technology use, boundary-setting and recognising burnout should be included in induction and managerial programmes, especially in high-intensity digital sectors.

- **Commit to empirical monitoring and periodic review**

The responsible authority should collect and publish data on digital overwork, mental-health outcomes and the functioning of disconnection policies across sectors, including informal and platform work. A statutory review can require Parliament to revisit and revise the framework after a fixed period, ensuring that the Right to Disconnect remains both effective and proportionate as digital work practices evolve.

## **Conclusion**

Employment at work has changed significantly with the digitalisation of work which has disrupted the time and space of work, making even traditional labour law frameworks less effective. This paper also claims that there are no disconnect protections in India, and that this is not just a regulatory gap but a constitutional problem. Ongoing control over working hours, coupled with disregard for its digital scope, allows a kind of perpetual invasion into privacy, psychological well-being, and autonomy. Thus, the present legal framework does not support

human dignity, mental health, and self-determination.

Based on the Article 21 jurisprudence, this paper has established that the Right to Disconnect may be based on constitutional right of life, privacy, and psychological integrity. This is further demonstrated by comparative experience that the recognitions of disconnection as a vital constituent of modern labour protection are underway in jurisdictions throughout the world, but in varied institutional models.

In the case of India, it is not the wholesale transplantation of these models but rather the creation of a situation-relevant framework that incorporates statutory recognition, occupational health concerns, and industry-specific flexibility. Having a constitutionally based right to unplug would help replace formal rights and realities and ensure that human dignity is not lost to technological advancement.

Good mental health is associated with higher productivity, better engagement and lower turnover. This means that safeguarding employees' psychological well-being through disconnection is not only beneficial for workers but also enhances efficiency, stability and long-term performance for employers and organisations. By incorporating the Right to Disconnect, it would be an essential step towards rethinking labour law in a hyper-connected, digital world.